Public Bill Committee

New Amendments handed in are marked thus ★
★ Amendments which will comply with the required notice period at their next appearance

GROCERIES CODE ADJUDICATOR BILL [LORDS]

NOTE

The Amendments have been arranged in accordance with the Order of the Committee [11 December 2012].

Ian Murray
Huw Irranca-Davies

Clause 9, page 3, line 17, leave out from ‘penalties’ to end of subsection (1).

Jo Swinson

Clause 9, page 3, line 17, leave out subsection (1).

Jo Swinson

Clause 9, page 3, line 20, leave out from ‘to’ to end of line 21 and insert ‘enforce through imposing financial penalties, that means imposing a penalty on the large retailer of an amount not exceeding the amount of the permitted maximum (see subsection (7)).’.

Jo Swinson

Clause 9, page 3, line 25, leave out ‘and’.

Ian Murray
Huw Irranca-Davies

Clause 9, page 3, line 26, leave out from subsection (c) and insert—
‘(c) that it shall be paid within 28 days.’.
Groceries Code Adjudicator Bill [Lords], continued

Jo Swinson

Clause 9, page 3, line 26, at end insert ‘; and
( ) how it must be paid.’.

Jo Swinson

Clause 9, page 3, line 34, at end insert—
‘(7) The Secretary of State must make an order—
(a) specifying the amount of the permitted maximum, or
(b) specifying how that amount is to be determined.

(8) The Adjudicator must, within 6 months beginning with the day on which
section 1 comes into force, make a recommendation as to the amount that should
be specified in the first order under subsection (7) or the method for determining
the amount.

(9) Before making a recommendation the Adjudicator must consult any person he or
she thinks appropriate.

(10) The Secretary of State—
(a) must have regard to the Adjudicator’s recommendation when making the
first order under subsection (7);
(b) may amend or replace an order under subsection (7) only if the Secretary
of State has considered whether to do so as part of a review under
section 15.

(11) The Adjudicator may not impose a financial penalty in respect of a breach of the
Groceries Code that occurs before the first order under subsection (7) comes into
force.’.

As Amendments to Jo Swinson’s proposed Amendment (No. 6):—

Andrew George

(a) Line 3, at end insert—
‘(7A) The Secretary of State must make the order referred to in subsection (7) within 3
months of the Adjudicator making the recommendation referred to in subsection
(8).’.

Andrew George

(b) Line 6, leave out ‘or’ and insert ‘and’.

Andrew George

(c) Line 8, leave out ‘must’ and insert ‘may’.

Andrew George

(d) Line 18, at end add ‘unless the breach started before, and continues after, that
date.’.
Groceries Code Adjudicator Bill [Lords], continued

Ian Murray
Huw Irranca-Davies

Schedule 3, page 15, line 39, leave out ‘if’ and insert—
‘(1) If the Secretary of State thinks that the Adjudicator’s other powers are inadequate; and
(2) has given due regard to the relevant Ministers in the Devolved Administrations.’.

Ian Murray
Huw Irranca-Davies

Schedule 3, page 16, line 14, at end insert—
‘(h) consult with the relevant Minister in the Devolved Administrations.’.

Jo Swinson
Ian Murray
Huw Irranca-Davies

Page 15, line 36, leave out Schedule 3.

Ian Murray
Huw Irranca-Davies

Clause 10, page 4, line 10, at end insert—
‘(6) Costs do not form part of financial penalties as described in section 9.’.

Ian Murray
Huw Irranca-Davies

Clause 11, page 4, line 14, after ‘to’, insert ‘the public,’.

Jo Swinson

Clause 12, page 4, line 20, leave out ‘and’.

Jo Swinson

Clause 12, page 4, line 22, at end insert ‘; and
(d) the criteria that the Adjudicator intends to adopt in deciding the amount of any financial penalty under section 9.’.
Groceries Code Adjudicator Bill [Lords], continued

Ian Murray
Huw Irranca-Davies

Clause 12, page 4, line 22, at end insert—
‘(d) the criteria that the Adjudicator intends to adopt in deciding whether to impose financial penalties under section 9 together with maximum penalty that may be imposed and how the maximum penalty is to be calculated.’.

Andrew George
Huw Irranca-Davies
Ian Murray

Clause 12, page 4, line 25, at end insert ‘including monitoring compliance with the Groceries Code.’.

Jo Swinson

Clause 12, page 4, line 31, leave out subsection (4).

Ian Murray
Huw Irranca-Davies

Clause 12, page 4, line 31, leave out from beginning to ‘penalties’ in line 32.

Ian Murray
Huw Irranca-Davies

Clause 12, page 4, line 37, at end insert ‘including appropriate Ministers from the Devolved Administrations.’.

Jo Swinson

Clause 12, page 4, line 39, leave out ‘and (c)’ and insert ‘, (c) and (d)’.

Ian Murray
Huw Irranca-Davies

Clause 12, page 4, line 39, leave out ‘6’ and insert ‘3’.

Andrew George

Clause 13, page 5, line 3, after ‘Code’, insert ‘or the Groceries Supply Order.’.

Andrew George

Clause 13, page 5, line 3, at end add—
‘(2) In considering such changes, the Adjudicator shall review the territorial extent of the Groceries Code, especially in relation to the activities of large retailers outside...’.
the United Kingdom, such activities to include supplier trading practices and activities undertaken by the subsidiaries of large retailers.’.

Ian Murray
Huw Irranca-Davies

Clause 13, page 5, line 3, at end add—
‘(2) The Office of Fair Trading shall be required to respond to the Adjudicator and Secretary of State on the recommendations as set out in subsection (1) explaining whether they will be acted upon or not.’.

Andrew George
Huw Irranca-Davies
Ian Murray

Clause 14, page 5, line 12, at end insert—
‘(d) the Adjudicator’s assessment of large retailers’ compliance with the Groceries Code.’.

Ian Murray
Huw Irranca-Davies

Clause 14, page 5, line 12, at end insert—
‘(d) the resources available to the Adjudicator.
(e) recommendations made to the Office of Fair Trading as set out in section 13.’.

Ian Murray
Huw Irranca-Davies

Clause 14, page 5, line 14, at end insert—
‘(3A) The Adjudicator must consider in advance of each annual report whether to recommend changes to the Groceries Code to the Office of Fair Trading.’.

Ian Murray
Huw Irranca-Davies

Clause 14, page 5, line 19, at end insert—
‘(c) the Business, Innovation and Skills Select Committee;
(d) the Environment, Food and Rural Affairs Select Committee;
(e) their respective successor committees from time to time; and
(f) the Devolved Administrations’.
Clause 15, page 6, line 27, after ‘must’, insert ‘appoint an independent Review Panel to’.

Clause 15, page 5, line 28, at end add—
‘( ) The Independent Review Panel shall be chaired by a judge of the High Court or the Court of Session and comprise—
(a) a representative of the retail sector;
(b) a representative of the supply sector; and
(c) a consumer representative.’.

Clause 15, page 5, line 37, after ‘under’, insert ‘section 9 or’.

Clause 15, page 5, line 38, leave out ‘that’ and insert ‘the relevant’.

Clause 15, page 5, line 38, at end insert—
‘( ) A review may consider whether it would be desirable to amend or replace the order for the time being in force under section 9(7).’.

Clause 15, page 6, line 14, at end insert—
‘(h) the relevant Ministers of the Devolved Administrations.’.

Clause 15, page 6, line 18, leave out subsection (10).

Clause 18, page 7, line 30, after ‘Adjudicator’, insert ‘or the Deputy Adjudicator or any person acting on the Adjudicator’s behalf’.

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Ian Murray
Huw Irranca-Davies

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Jo Swinson

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Ian Murray
Huw Irranca-Davies
Groceries Code Adjudicator Bill [Lords], continued

Ian Murray
Huw Irranca-Davies

Clause 18, page 7, line 30, leave out ‘may’ and insert ‘must’.

Ian Murray
Huw Irranca-Davies

Clause 18, page 7, line 36, after ‘Adjudicator’, insert ‘or the Deputy Adjudicator or any person acting on the Adjudicator’s behalf’.

Ian Murray
Huw Irranca-Davies

Clause 18, page 7, line 36, leave out ‘may’ and insert ‘must’.

Ian Murray
Huw Irranca-Davies

Clause 18, page 7, line 37, leave out from ‘Adjudicator’ to end and insert ‘should reasonably believe could cause the identity of the complainant to be revealed’.

Ian Murray
Huw Irranca-Davies

Clause 18, page 7, line 42, after ‘Adjudicator’, insert ‘or the Deputy Adjudicator or any person acting on the Adjudicator’s behalf’.

Andrew George

Clause 18, page 7, line 43, leave out paragraphs (b) and (c).

Andrew George

Clause 18, page 8, line 2, at end insert—

'(3A) Notwithstanding subsection (3), the Adjudicator shall, before permitting any disclosure of the identity of any complainant or provider of information to the Adjudicator, take all practical steps to protect the identity of that person by redacting, anonymising and where appropriate otherwise limiting the disclosure of identifying information to any third party and further by obtaining binding undertakings of non-disclosure from any person to whom identifying information is disclosed.’.

Ian Murray
Huw Irranca-Davies

Clause 18, page 8, line 9, at end add—

'( ) Any person who, in contravention of this section knowingly discloses any information obtained when employed by, or acting on behalf of, the Adjudicator is guilty of an offence and liable on summary conviction to a fine.’.
Groceries Code Adjudicator Bill [Lords], continued

Clause 19, page 8, line 23, at end insert—

‘(5A) Notwithstanding section 25, the Adjudicator must publish the criteria as set out in subsection (5) within three months of this Act coming into force’.

Jo Swinson

Clause 23, page 10, line 21, leave out ‘9(1) or’.

Jo Swinson

Clause 26, page 11, line 3, leave out subsection (2).

NEW CLAUSES

Extension of groceries code

To move the following Clause:—

‘(1) In advance of each annual report prepared under section 14, the Adjudicator shall consider any information received in the preceding year concerning supply relations between suppliers and third parties (intermediaries) who on onward suppliers to large retailers;

(2) If under subsection (1), the Adjudicator has information of incidents that, were they to have occurred between a supplier and a large retailer, would have constituted a breach of the Groceries Code, the Adjudicator shall consider and make recommendations on whether the pattern of such incidents merits an extension of the Groceries Code to such intermediaries and therefore a redefinition of “direct supplier” in the Groceries Code;

(3) In advance of every third annual report prepared under section 14, the Adjudicator shall consider any information received in the preceding three-year period concerning supply relations between suppliers and third party onward suppliers not covered by subsection (2);

(4) If under subsection (3) the Adjudicator has information of incidents that, were they to have occurred between a supplier and a large retailer, would have constituted a breach of the Groceries Code, the Adjudicator shall consider and
Groceries Code Adjudicator Bill [Lords], continued

make recommendations on whether the pattern of such incidents merits an extension of the Groceries Code to such intermediaries.

Sunsetting provisions and replacement of current code on statutory footing

Ian Murray
Huw Irranca-Davies

To move the following Clause:—

‘(1) Within three years of this Act coming into force, the Competition Commission shall conduct a review of the effectiveness of the Act’s provisions with regard to levels of compliance with the Groceries Code.

(2) If the review finds that the levels of compliance are unsatisfactory, the Secretary of State shall prepare and lay before Parliament regulations containing analogous provisions to those in the Groceries Code, thereby giving statutory effect to the Code.

(3) “Levels of compliance” as referred to in section (1) shall be deemed unsatisfactory if (without limitation) they have not improved since the bringing into force of the Act.

(4) The Groceries Supply Code of Practice shall thereby be revoked.

(5) Where the Secretary of State proposes to issue or revise a code of practice under subsection (2), he shall prepare a draft of the code (or revised code).

(6) The Secretary of State shall consult the following about the draft—

(a) The Competition Commission;
(b) The Office of Fair Trading;
(c) The retailers mentioned in Article 4(1)(a) and (b) of the Groceries Supply Order;
(d) one or more persons appearing to the Secretary of State to represent the interests of suppliers;
(e) one or more persons appearing to the Secretary of State to represent the interests of consumers; and
(f) any other person the Secretary of State thinks appropriate.

(7) If the Secretary of State determines to proceed with the draft (either in its original form or with modifications) he shall lay the draft before Parliament in the form of regulations.

(8) Such regulations shall be made by Statutory Instrument and may only be made if a draft of them has been laid before and approved by resolution of both Houses of Parliament.

(9) A code (or revised code) issued under subsection (6) shall come into force on such date as the Secretary of State may by order made by statutory instrument appoint.’.
ORDER OF THE HOUSE [19 NOVEMBER 2012]

That the following provisions shall apply to the Groceries Code Adjudicator Bill [Lords]:

**Committal**

1. The Bill shall be committed to a Public Bill Committee.

**Proceedings in Public Bill Committee**

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Thursday 6 December 2012.

3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

**Consideration and Third Reading**

4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings are commenced.

5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.

6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and Third Reading.

**Other proceedings**

7. Any other proceedings on the Bill (including any proceedings on consideration of any message from the Lords) may be programmed.

GROCERIES CODE ADJUDICATOR BILL [LORDS] (PROGRAMME) (NO. 2)

That the Order of 19 November 2012 (Groceries Code Adjudicator Bill [Lords] (Programme)) be varied as follows:

In paragraph 2 (conclusion of proceedings in Public Bill Committee), for “Thursday 6 December”, substitute “Tuesday 18 December”.

ORDER OF THE COMMITTEE [11 DECEMBER 2012]

That—

(1) the Committee shall (in addition to its first meeting at 8.55 am on Tuesday 11 December) meet—

(a) at 2.00 pm on Tuesday 11 December;

(b) at 11.30 am and 2.00 pm on Thursday 13 December;

(c) at 8.55 am and 2.00 pm on Tuesday 18 December;
Groceries Code Adjudicator Bill [Lords], continued

(2) the proceedings shall be taken in the following order: Clause 1; Schedule 1; Clauses 2 to 4; Schedule 2; Clauses 5 to 9; Schedule 3; Clauses 10 to 26; new Clauses; new Schedules; remaining proceedings on the Bill;

(3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 6.00 pm on Tuesday 18 December.

NOTICES WITHDRAWN

The following Notices were withdrawn on 12 December 2012:

NC1.